

**ASSEMBLY BILL**

**No. 559**

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**Introduced by Assembly Member Swanson**

February 25, 2009

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An act to amend Section 236.1 of the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 559, as introduced, Swanson. Human trafficking: minors.

Existing law provides that any person who deprives or violates the personal liberty of another with the intent to effect or maintain certain felonies, or to obtain forced labor or services, is guilty of human trafficking.

This bill would expand the scope of that offense to provide that any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of the commission of the offense, to engage in a commercial sex act, as specified, or who obtains or attempts to obtain forced labor or services from a minor, is guilty of human trafficking.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 236.1 of the Penal Code is amended to read:

236.1. (a) (1) Any person who deprives or violates the personal liberty of another with the intent to effect or maintain a felony violation of Section 266, 266h, 266i, 267, 311.4, or 518, or to obtain forced labor or services, is guilty of human trafficking.

(2) Any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of the commission of the offense, to engage in a commercial sex act described in Section 266, 266h, 266i, 266j, 267, 311.4, 518, subdivision (b) of Section 647, or Section 653.22, or who obtains or attempts to obtain forced labor or services from a minor, is guilty of human trafficking.

(b) Except as provided in subdivision (c), a violation of this section is punishable by imprisonment in the state prison for three, four, or five years.

(c) A violation of this section where the victim of the trafficking was under 18 years of age at the time of the commission of the offense is punishable by imprisonment in the state prison for four, six, or eight years.

(d) (1) For purposes of this section, unlawful deprivation or violation of the personal liberty of another includes substantial and sustained restriction of another's liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

(2) Duress includes knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.

(e) For purposes of this section, "forced labor or services" means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, or coercion, or equivalent conduct that would reasonably overbear the will of the person.

(f) The Legislature finds that the definition of human trafficking in this section is equivalent to the federal definition of a severe

1 form of trafficking found in Section 7102(8) of Title 22 of the  
2 United States Code.

3 SEC. 2. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.